



DAN MORALES  
ATTORNEY GENERAL

Office of the Attorney General  
State of Texas

July 15, 1991

Ms. Leah Curtis  
Assistant Criminal District Attorney  
Civil Section  
Bexar County Justice Center  
300 Dolorosa, Suite 4049  
San Antonio, Texas 78205-3030

OR91-326

Dear Ms. Curtis:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 12827.

The Bexar County sheriff received an open records request for a copy of all "reports" submitted by individuals who were involved in the grievance proceedings of two named sheriff's deputies. You state that you have released to the requestor, who is representing the two officers in the grievance proceedings, the statements given by those two deputies; you seek to withhold, however, the statement of a third officer made pursuant to the guarantees offered under *Garrity v. New Jersey*, 385 U.S. 493 (1967).

You contend that the third deputy made his statement under the protection of a *Garrity* warning and that the statement should therefore be withheld pursuant to section 3(a)(1) of the Open Records Act as information deemed confidential by judicial decision. As previously noted in prior open records decisions to your office, *see, e.g.,* OR91-310 (1991), the Supreme Court's holding in *Garrity* (that the Fourteenth Amendment prohibits the use of police officers' statements obtained under threat of removal in subsequent criminal proceedings) has no bearing on whether those statements are confidential under the Open Records Act. *Cf.* Open Records Decision No. 575 (1990) (section 3(a)(1) confidentiality does not encompass discovery privileges). We also noted in those previous rulings that these statements cannot be made confidential under the Open Records Act simply because the party submitting the information anticipates or requests that it be kept confidential. *Industrial Found. of the South v. Texas Indus. Accident Bd.*, 540 S.W.2d 668, 687 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). Because you have raised

none of the act's other exceptions to required public disclosure and because this office has determined that none of the records at issue contain information deemed confidential by law, the requested information must be released in its entirety.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR91-326.

Yours very truly,

A handwritten signature in black ink, appearing to read "Mary R. Crouter". The signature is fluid and cursive, with the first name "Mary" and last name "Crouter" being the most prominent parts.

Mary R. Crouter  
Assistant Attorney General  
Opinion Committee

MRC/RWP/lb

Ref.: ID# 12827

cc: Miguel Pedraza  
Deputy Sheriff's Association  
of Bexar County  
419 S. Main Street, Suite 205  
San Antonio, Texas 78204